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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

RCRV, INC. d/b/a ROCK REVIVAL, a California corporation,)	Case No.: 2:16-cv-02829-R (AFMx)
)	
Plaintiff,)	Hon. Manuel L. Real
)	
v.)	STIPULATED PROTECTIVE ORDER FOR CONFIDENTIAL TREATMENT OF DOCUMENTS OR INFORMATION
)	
GRACING INC. d/b/a GRACE IN LA, a California corporation, JORDAN OUTDOOR ENTERPRISES, LTD., a Georgia corporation, XYZ COMPANIES 1-10, and JOHN AND JANE DOES 1-10,)	Complaint Filed: April 25, 2016
)	
Defendants.)	DISCOVERY MATTER

1 In connection with the production of confidential documents and other
2 confidential information in this action, plaintiff RCRV, Inc. d/b/a Rock Revival
3 (“Plaintiff”) and defendants Gracing Inc. d/b/a Grace In LA and Jordan Outdoor
4 Enterprises, Ltd. (“Defendants”), through their respective counsel, hereby enter into
5 this Stipulated Protective Order for Confidential Treatment of Documents or
6 Information (the “Stipulated Protective Order”).

7 **Statement of Good Cause:** This action involves claims for, among other
8 things, trademark infringement, unfair competition and cancellation under the Lanham
9 Act, 15 U.S.C. § 1051, *et. seq.*, common law trademark infringement and unfair
10 competition under California law. The parties are variously designers, distributors,
11 suppliers, manufacturers, vendors, and retailers of jeanswear and other casual apparel
12 items. The parties therefore recognize that discovery requesting information from the
13 parties, their vendors, customers and clients, including financial information, market
14 information and other commercially and competitively sensitive information may be
15 necessary to prove and/or disprove Plaintiff’s and Defendants’ claims and defenses.
16 There will also be depositions of the parties’ employees or agents and third party
17 vendors, customers or clients, and such persons will likely be asked questions on these
18 potentially sensitive subject areas. The parties will likely be placed at a competitive or
19 economic disadvantage if such confidential and/or proprietary information is disclosed
20 to other parties and/or the public at large. This Stipulated Protective Order is therefore
21 necessary to avoid any prejudice or harm in the form of loss of competitive advantage
22 which would likely result if such information was disclosed in the absence of the
23 protections set forth herein. This Stipulated Protective Order is also necessary for the
24 orderly management of this litigation. Without this Stipulated Protective Order, the
25 exchange of party information, as well as information potentially needed from third
26 parties, including most importantly the parties’ manufacturers, vendors, suppliers,
27 customers or retailers, may become logistically very difficult, time consuming and
28 expensive.

Exercise of Restraint and Care in Designating Material for Protection:

Each party or non-party that designates documents or information for protection under this Stipulated Protective Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. A designating party must take care to designate for protection only the documents or information that qualifies. In that regard, mass and/or indiscriminate designations are prohibited. Designations that are shown to be clearly unjustified, or that have been made for an improper purpose (e.g., to unnecessarily encumber or delay the case development process, or to impose unnecessary expenses and burdens on other parties), expose the designating party to sanctions.

A. Definition of “Confidential Information”

1. “Confidential Information,” as used herein, means all information in whatever form, such as oral, written, documentary, tangible, intangible, electronic, or digitized now or hereafter in existence that:

a. is protected as a “Trade Secret” under the Uniform Trade Secrets Act, California Civil Code sections 3426 *et. seq.*, as defined at section 3426.1(d): “[I]nformation, including a formula, pattern, compilation, program, device, method, technique, or process, that: (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (2) Is the subject of efforts that are reasonable under the circumstance to maintain its secrecy”; or

b. is otherwise properly and in good faith regarded by a party as being confidential, private, or proprietary in nature, including for example personal and private information regarding individuals such as personnel records.

c. As illustrative examples only, the parties anticipate that the following descriptive categories will be designated as Confidential Information under this Stipulated Protective Order: employee records and information; customer lists; current business plans; and financial information of the parties; and proprietary

1 fabric/style specifications and unpublished designs.

2 2. Confidential Information is unlimited in kind or form and includes,
3 by way of example only and without limitation thereto, confidential information
4 relating to the following: any products, designs, specifications, tests, plans, studies,
5 surveys, manufacture, distribution, marketing, promotion, advertisement, sales,
6 opportunities, vendors, customers, financial matters, costs, sources, prices, profits,
7 research, development, analysis, know-how, show-how, personnel, strategies, or
8 competition.

9 3. This Stipulated Protective Order shall not apply to information that,
10 before disclosure, is properly in the possession or knowledge of the party to whom
11 such disclosure is made, or is public knowledge. The restrictions contained in this
12 Stipulated Protective Order shall not apply to information that is, or after disclosure
13 becomes, public knowledge other than by an act or omission of the party to whom such
14 disclosure is made, or that is legitimately acquired from a source not subject to this
15 Stipulated Protective Order.

16 **B. Production of Confidential Information**

17 1. All efforts by any party or witness in this matter to designate any
18 information as “Confidential” shall be governed by the terms of this Stipulated
19 Protective Order. The party or witness by whom any disclosure is made is the
20 “Disclosing Party” and the party to whom any disclosure is made is the “Receiving
21 Party.” By receiving any property designated as “Confidential,” the Receiving Party
22 agrees not to disclose, publish, disseminate, or use, other than as expressly permitted
23 herein, any such property and will assure that all reasonable efforts are made to prevent
24 any unauthorized use, disclosure, publication or dissemination of such property.

25 2. All Confidential Information produced by the Disclosing Party to
26 the Receiving Party in whatever form (*e.g.*, documents, materials, things, testimony or
27 other information) during the course of this matter shall be designated “Confidential”
28 in accordance with the terms of this Stipulated Protective Order, *infra*, prior to

1 disclosure, by use of a reasonably conspicuous and prominent mark. In the case of
2 documents, the mark shall be on every page.

3 **C. Restrictions On the Disclosure of Confidential Information**

4 Information designated as “Confidential” shall be restricted to viewing, or
5 copying by, and disclosure to:

- 6 1. attorneys acting on behalf of the parties in this matter;
- 7 2. in-house counsel for the parties;
- 8 3. officers, directors or employees of each party who counsel have
9 made a good faith and reasonable determination need to know the
10 information in order to assist such counsel with the litigation, but
11 only if such officer, director or employee complies with this
12 Stipulated Protective Order in full and reads, signs, and agrees to be
13 bound by all of its terms, and does not disclose any such documents
14 or information to any other officer, director or employee unless
15 authorized and instructed by the party’s counsel;
- 16 4. the office personnel employed by the counsel working under the
17 direct supervision of said counsel;
- 18 5. the authors and the original recipients of the document;
- 19 6. the United States District Court for the Central District of
20 California and all clerks and other personnel in the United States
21 District Court for the Central District of California, before which
22 this action is pending;
- 23 7. experts and consultants necessarily retained by counsel of record in
24 this litigation, but only if these experts and consultants comply with
25 this Stipulated Protective Order in full and read, sign, and agree to
26 be bound by all of its terms; and

8. employees of copy services or database services, trial support firms, or similar vendors who are engaged by the parties during the litigation of this action.

D. Depositions

1. Any party may designate testimony on oral deposition as “Confidential.” The designation of such testimony may be made at any point during the deposition by so stating on the record and identifying the level of protection desired.

2. Once testimony has been designated as “Confidential,” only the following persons shall be present for the answer:

- a. persons authorized under this Stipulated Protective Order;
- b. the deponent; and
- c. the reporter and videographer.

3. Each court reporter must separately bind those portions of deposition transcript and related exhibits deemed confidential and shall further separate into separate bound deposition transcripts — by the various levels of confidentiality — and shall thereon place a reasonably conspicuous and prominent designation on the first page of each such bound transcript or exhibits.

4. A deponent and/or party shall have until ten (10) days after receipt of a deposition transcript to designate additional portions of the transcript under this Stipulated Protective Order.

5. Each party shall cause each copy of the transcript in its custody or control or that comes into its custody or control to be immediately marked as designated.

6. Prior to the expiration of ten (10) days, a deposition transcript and/or the substance of a deponent’s answers may be disclosed only to those persons authorized to receive items designated as “Confidential” and the deponent.

E. Items Filed with the Court

If a party or any other person subject to this order wishes to file or lodge with the Court any document that contains or attaches any Confidential Information, or any document that contains, reflects or summarizes Confidential Information, that party or person shall comply with the procedures set forth in Local Rule 79-5.1 of the Local Rules of the United States District Court for the Central District of California [Filing Under Seal - Procedures].

F. Inadvertent Disclosure

1. The inadvertent or unintentional disclosure of “Confidential” information, regardless of whether the item was so designated at the time of disclosure, shall not be deemed a waiver in whole or in part of a party’s claim of protection under this Stipulated Protective Order either as to the specific information disclosed therein or on the same or related subject matter, provided that the party later asserting a claim of protection informs the opposing parties of its claim within a reasonable time.

2. If notified of the inadvertent or unintentional disclosure of Confidential Information as described in the above paragraph, the Receiving Party shall promptly sequester and protect any protected information identified by the Disclosing Party to have been inadvertently or unintentionally disclosed to the Receiving Party upon being notified of the Disclosing Party’s claim of protection. If the Receiving Party disclosed the protected information before being notified of the Disclosing Party’s claim of protection, it must take reasonable steps to retrieve the item for destruction, sequestering, or return to the Disclosing Party.

3. If information subject to a claim of attorney-client privilege or work product immunity is inadvertently produced, such production shall in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any such claim. If a party has inadvertently produced information subject to a claim of immunity or privilege, upon request, such information shall be returned promptly and, if a document, all copies (including by not limited to electronic copies) of that document

1 shall be destroyed. The party returning such information may move the Court for an
2 order pursuant to Local Rules 37.1 and 37.2, compelling production of such
3 information, but the motion shall not assert as a ground for production the fact that the
4 information was inadvertently produced.

5 **G. Acknowledgment of Order**

6 Each person required by this Stipulated Protective Order to sign a statement
7 agreeing to be bound by the Order must sign the statement set forth in Exhibit A to this
8 Order and deliver the executed statement to the Disclosing Party.

9 **H. Agreement of Parties to Order**

10 All parties to this action, their counsel, and all other persons subject to this
11 Stipulated Protective Order shall be bound by this Order and shall abide by all of the
12 terms of this Order until otherwise ordered by the United States District Court for the
13 Central District of California, or by written notice releasing them from the respective
14 obligations received from the pertinent Disclosing Party.

15 This Stipulated Protective Order is not intended to govern the use of
16 Confidential Information at any trial of this action. Questions of the protection of
17 Confidential Information during trial will be presented to the Court and the
18 Designating Party prior to or during trial as each party deems appropriate.

19 **I. Continuing Effect of Order**

20 Unless counsel agrees otherwise in writing, within ninety (90) days of the final
21 disposition of this action, whether by final adjudication on the merits, including any
22 appeals, or by other means, the attorneys for the parties shall return promptly to the
23 Disclosing Party from whom they were obtained, all documents, other than attorney
24 work-product and communications protected by the attorney-client privilege, which
25 constitute or include material that has been designated "Confidential," or destroy the
26 same, and return or destroy all copies made thereof, including all documents, or copies
27 provided by a Receiving Party to any other person. At the conclusion of the 90-day
28 period, counsel for each party shall represent in writing that to his or her knowledge

1 and belief the party has either returned or destroyed all Confidential Material in
2 accordance with this order. Notwithstanding the foregoing, counsel for the parties
3 shall be permitted to retain a file copy of materials produced in discovery or created
4 during the course of the litigation, or made part of the record, or which have been filed
5 under seal with the Clerk of the Court and a copy of all depositions, including exhibits,
6 and deposition evaluations. Such file copies containing Confidential Information must
7 be maintained under the conditions set forth in this order for such designated materials.

8 **J. Additional Relief**

9 No party is prevented from seeking relief not provided by this Stipulated
10 Protective Order, or otherwise seeking relief from the United States District Court for
11 the Central District of California, as may be appropriate to protect its interests or
12 otherwise prepare this matter for trial.

13 **K. Challenging Designation of Materials**

14 1. Any Receiving Party disagreeing with the designation of any
15 document or information as "Confidential" shall notify the Disclosing Party in writing.
16 The Disclosing Party shall then have a reasonable period, not exceeding ten (10) court
17 days, from the date of receipt of such notice to advise the Receiving Party in writing
18 (a) whether or not the Disclosing Party persists in such designation; and (b) if the
19 Disclosing Party persists in the designation, to explain the reasons for the particular
20 designation. The Receiving Party may then advise the Disclosing Party in writing that
21 it disputes such designation. The Disclosing Party may then move the Court for an
22 order confirming the particular designation or replacing it with a different designation.
23 The procedure detailed in this paragraph is deemed to comply with the meet and confer
24 process required by Rule 37 of the Local Rules of the United States District Court for
25 the Central District of California. The parties do not have to meet in person on this
26 issue. Thereafter, the parties shall comply with the requirements of Rule 37 of the
27 Federal Rules of Civil Procedure and Rule 37 of the Local Rules of the United States
28 District Court for the Central District of California governing discovery motions. The

1 Designating Party who asserts that the document or information is “Confidential” shall
2 have the initial burden of proving that the designation is proper. Information
3 designated “Confidential” by a Disclosing Party shall be treated as such by a Receiving
4 Party unless otherwise agreed to by the parties or otherwise ordered by the Court or by
5 any appellate court, should appellate review be sought.

6 2. The failure of a Receiving Party to challenge expressly a claim of
7 confidentiality or the designation of any document or information as “Confidential” at
8 the time of disclosure shall not constitute a waiver of the right to assert at any
9 subsequent time that the same is not in fact confidential or not appropriately designated
10 for any reason.

11 3. Except as set forth in Paragraph K.1 above regarding the “meet and
12 confer” procedure for challenging the designations of any materials under the
13 Stipulated Protective Order, Local Rule 37 governs the procedure for resolving any
14 disputes related to this Protective Order.

15 **L. Use for This Litigation Only**

16 1. Items designated under this Stipulated Protective Order shall not be
17 used by any recipient or disclosed to anyone for any purpose other than in connection
18 with the above-captioned action.

19 2. In the event that any party and/or recipient of Confidential
20 Information pursuant to this Stipulated Protective Order is served with subpoena, legal
21 process, order, or otherwise requested to disclose any Confidential Information (the
22 “Disclosing Entity”) by any person or entity not covered by this Order, including,
23 without limitation, insurance carriers, state, local or federal agencies, or litigants in
24 other litigation (the “Requesting Entity”), the Disclosing Entity shall give notice
25 thereof, by telephone and in writing, as soon as practicable but in any event
26 sufficiently prior to the requested disclosure, to afford an opportunity to intervene for
27 any party who may be adversely affected by the disclosure except to the extent that
28 such notice is precluded by law. The party asserting the confidential treatment of the

1 Confidential Information shall have the burden of defending against any such
2 subpoena, legal process or order. Nothing in this Order shall be construed as
3 authorizing a party to disobey a lawful subpoena issued in another action.

4 **M. Prior Orders**

5 This Stipulated Protective Order shall not affect any prior order of the Court.

6 **N. Execution and Counterpart**

7 This Stipulated Protective Order may be executed in one or more counterparts,
8 each of which shall be deemed to be an original, but all of which together shall
9 constitute one and the same instrument. Electronic signatures of any party upon the
10 signature page of this Stipulated Protective Order shall be binding upon the parties
11 hereto and may be submitted as though such signatures were original signatures.

12 **O. Submission to Court**

13 The Parties agree to submit this Stipulated Protective Order to the Court for
14 adoption as an order of the Court. The Parties reserve the right to seek, upon good
15 cause, modification of this Stipulated Protective Order by the Court.

16
17 **IT IS SO ORDERED.**

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20 Date: September 22, 2016



21 Hon. Manuel L. Real
22 United States District Judge
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Counsel for Defendants

Dated: September 16, 2016

Dated: September 16, 2016

Pursuant to Civil L.R. 5-4.3.4(a)(2)(i), the filer attests that all other signatories listed, and on whose behalf this filing is submitted, concur in the filing's content and have authorized the filing.

EXHIBIT A

UNDERTAKING TO BE BOUND BY THE PRETRIAL PROTECTIVE ORDER REGARDING CONFIDENTIALITY OF DOCUMENTS

I, _____ [print or type full name], of _____
[print or type full address], declare under penalty of perjury that I have read in its
entirety and understand the Stipulated Protective Order that was issued by the United
States District Court for the Central District of California in the case of *RCRV, Inc.*
d/b/a Rock Revival v. Gracing, Inc. d/b/a Grace in LA, et al., Case No. 16-cv-02829-R
(AFMx).

I agree to comply with and to be bound by all the terms of this Stipulated
Protective Order and I understand and acknowledge that failure to so comply could
expose me to sanctions and punishment in the nature of contempt. I solemnly promise
that I will not disclose in any manner any information or item that is subject to this
Stipulated Protective Order to any person or entity except in strict compliance with the
provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for
the Central District of California for the purpose of enforcing the terms of this
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action.

Date: _____, 2016

City and State where sworn and signed: _____

Signed: _____
[Print Name] [Signature]